LEGISLATIVE DIGEST
HOUSE REPUBLICAN CONFERENCE | CHAIRMAN MIKE PENCE
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Amendments to H.R. 1— The American Recovery and Reinvestment Act of 2009

FLOOR SITUATION

H.Res. 92 provides for complete consideration of H.R. 1, the American Recovery and Reinvestment Act, under a structured rule. The rule provides for one hour of general debate, equally divided between the Majority and the Minority, and one motion to recommit, with or without instructions. The rule provides for consideration of 11 amendments, including a Republican amendment in the nature of a substitute. Each amendment is debatable for ten minutes, except the amendment in the nature of a substitute, which is debatable for 60 minutes.

In addition, H.Res. 92 includes an amendment, to be considered as adopted with the passage of the resolution. The amendment to be considered as adopted:

1. Requires any State or agencies receiving funds to submit a certification, within 45 days of enactment, that the State will request and use funds provided under this bill.
2. Waives the local matching requirements and the salary caps for the COPs hiring program in 2009 and 2010.
3. Designates $15 million for the renovation and preservation of Buildings on Historically Black Colleges and Universities.
4. Strikes $200 million for turf replacements and other construction projects on the National Mall.
5. Strikes the family planning expansions in section 5006.

SUMMARY OF AMENDMENTS

1. Amendment #178, *Oberstar (D-MN)*—Requires that recipients of Federal Aviation Administration grants-in-aid for airports enter into contracts for the use of at least 50% of the grant amount within 90 days of the award of the grant.

2. Amendment #199, *Markey (D-MA)*—Provides that the Secretary of Energy, when making grants for demonstration programs for smart grid electricity transmission, require grant recipients to utilize internet-based protocols and standards in order to receive funds.

3. Amendment #95, Shuster (R-PA)—The underlying bill contains a maintenance of effort provision that requires States to certify that they will maintain their normal funding for programs that receive federal appropriations in the bill. This amendment would stipulate that if a State was unable to verify that federal funds would not supplant non-federal funds, then the federal funds would be recaptured and redistributed to other States and agencies.

4. Amendment #70, *Nadler (D-NY)/DeFazio (D-OR)/Lipinski (D-IL)/McMahon (D-NY)/Ellison (D-MN)*—Increases spending for transit capital funding in the bill by $3 billion, from $6 billion to $9 billion. $1.35 billion of the additional funds shall be used for urbanized area formula transit grants and $1.5 billion shall be used for formula transit grants for non-urbanized areas. The funds would be used to purchase busses and equipment needed to provide additional transportation services and to make improvements to transit facilities. This increase is not paid for by reducing other spending portions of the bill.

5. Amendment #109, Neugebauer (R-TX)—Strikes division A, which contains the bills appropriations provisions. The amendment would remove $355.9 billion in discretionary domestic spending for a wide variety of programs, including climate change research, federal building repair, the National Endowment for the Arts, AmeriCorps, and nurse and physician training. The amendment would bring the over-all cost of the bill to $463 million in tax and mandatory spending measures.

6. Amendment #172, Waters (D-CA)—Authorizes funds for competitive worker training and placement grants to be used for broadband and wireless internet deployment grants in rural, suburban, and urban areas. The bill authorizes $750 million for the competitive worker training and placement grants through the Department of Labor.

7. Amendment #132, Flake (R-AZ)—Strikes $800 million in funding for Amtrak. The funds in the bill would otherwise be used to reduce the federally subsidized rail carrier's $10 billion capital backlog.

8. Amendment #198, *Kissel (D-NC)—*Expands provisions of the Berry Amendment Extension Act (which prohibits the Department of Homeland Security from procuring or using certain foreign-made items) to require that DHS purchase uniforms for no less than 100,000 uniformed government employees from textile and apparel manufacturers.

9. Amendment #22, Platts (R-PA) / *Van Hollen (D-MD)—* Inserts the text of the Whistleblower Protection Enhancement Act (H.R. 985 in the 110th), which passed the House on March 14, 2007, by a vote of 331-94, into the underlying bill. Among other things, the legislation expands federal employee whistleblower protection laws granting protections to Transportation Security Agency and national security personnel employees. When it was originally considered, this legislation was strongly opposed by the Bush administration which stated that, "Rather than promote and protect genuine disclosures of matters of real public concern, it would likely increase the number of frivolous complaints and waste resources." For more information on the legislation, please see the Conference's Daily Digest summary.

10. Amendment #89, *Teague (D-NM)—*The underlying bill establishes a new government website, Recovery.org, to "foster greater accountability and transparency in the use of funds made available in this Act." The amendment would require that Recovery.org contain links and information on how to assess job opportunities created by entities receiving funding under the bill. Including information about local employment agencies, public firms receiving funds, and private firms contracted to perform work funded by the bill.

11. Amendment #195, Camp (R-MI) / Cantor(R-VA)—This Republican substitute amendment in the nature of a substitute would strike the text of the underlying bill and replace it with pro-growth legislation that would stimulate job growth and provide tax relief to small businesses and working families. The specific provisions of the substitute are outlined below.

Tax Relief for Working Families: The substitute replaces the refundable tax credit in the underlying bill with a two-year reduction in the lowest individual tax brackets from 15% to 10% and from 10% to 5% respectively, for 2009 and 2010. The provision would provide working taxpayers with an immediate increase in income. Single filers would receive an average benefit of $500 or $1,200 annually (depending on their tax bracket), while married couples filing jointly could save up to $1,200 a year in taxes. The substitute would prevent an individual from becoming eligible for the alternative minimum tax (AMT) as a result of their tax savings. This provision would save taxpayers $291.3 billion.

Home Buyer Credit Extension: Expands the homebuyer tax credit, to makes all home buyers eligible to receive a refundable credit of the lesser of 10% of the home's cost or $7,500 if the home is there primary residence through December 31, 2009. Under current law, the credit applies only to first-time home buyers. The substitute requires a 5% down payment to receive the credit and removes recapture provisions which required the home buyer to pay back the credit through increased tax payments over a 15 year span. Under current law, the credit will expire on June 30, 2009. This expansion would save taxpayers $21.3 billion.

Small Business Deduction: Makes a new tax deduction that allows businesses with less than 500 employees to take a tax deduction equal to 20% of their income in 2009 and 2010. Small businesses make up 99.9% of the 27.2 million businesses in the U.S. and employ approximately half of all private sector employees. This provision would save small businesses $47.6 billion.

Bonus Depreciation: Extends bonus depreciation that allows businesses to make a tax deduction of 50% of the cost of depreciable capital expenditures within the first year of the property's purchase. Normally, depreciable property deductions are taken over time based on a depreciation formula. The 50% first-year deduction would be extended by this legislation through 2009—retroactively effective for any property put into service after December 31, 2008. The Joint Committee of Taxation (JCT) estimates that this provision would save taxpayer's $5 billion. This provision is also included in the underlying legislation.

Small Business Expensing: In 2008, a taxpayer operating a small business was allowed to deduct up to $250,000 from their taxes for the cost of property purchased for the business. The $250,000 deduction was reduced by each dollar the taxpayer spent for qualified business property over $800,000 in the same year. The amounts of this provision are scheduled to drop in 2009 and 2010. The maximum deduction will be decreased to $125,000 per year. That amount will be reduced by the amount of property purchased above $500,000. The deduction is scheduled to return to the $250,000 and $800,000 amounts in 2011. The bill would extend the $250,000 and $800,000 amounts to 2009 and 2010. JCT estimates that this provision would save taxpayers $41 million. This provision is also included in the underlying legislation.

Extended Carry-Back: Extends the net operating loss (NOL) carryback period from two years to five years for NOLs that occurred in 2008 and 2009. A NOL is defined as the amount by which a company or taxpayer's business deductions are greater than its gross income in a given year. A company or taxpayer can apply a NOL to past tax payments and receive a refund. Under current law, NOLs carryback two years. This legislation would extend the carryback period to five years in the case of a NOL occurring in 2008 and 2009. This carryback benefit would not be available to any companies that received assistance from the Troubled Asset Relief Program (TARP), Fannie Mae, or Freddie Mac. The JCT estimates that this provision would save taxpayers $17 billion. This provision is also included in the underlying legislation.

Health Insurance Premium Deduction: Creates a new health insurance tax deduction for those who do not receive tax-preferred, employer-sponsored coverage, regardless of whether they itemize their taxes or take the standard deduction. Unlike the underlying bill, the substitute would allow individuals to use the tax deduction for any kind of coverage, not just COBRA. And it also lets all taxpayers (not just the unemployed or those eligible for COBRA) deduct the cost of insurance they buy from providers other than their employer. Instead of being forced to take COBRA to receive the premium subsidies, unemployed individuals would have the ability to purchase the health care coverage of their choice. This provision is estimated to save taxpayers $32 billion.

Temporary Exclusion of Unemployment Insurance: Excludes unemployment insurance benefits from federal income tax for taxable years 2008 and 2009. This provision is estimated to save taxpayers $18 billion.

Repeal Contractor Withholding: Repeals a 3% withholding on payments to contractors providing property or services to federal, State, and local governments after December 31, 2010. Under current law, the withholding would apply to all payments to contractors made after 2010. The JCT predicts that this provision would save taxpayers $10.9 billion. This provision is also included in the underlying legislation.

Unemployment Benefits: Extends the current extension of unemployment insurance (UI), which is scheduled to expire on March 31, 2009, through December 31, 2009. This provision would also extend the program's phase-out period from August 27, 2009, to March 31, 2010. The substitute also provides a one-time transfer of up to $7 billion in federal unemployment insurance funds to States in order to prevent $5 billion in State payroll tax hikes. These provisions estimated to cost $32.8 billion and are also included in the underlying bill.

No Tax Increases to Pay for Spending: Expresses the sense of Congress that raising taxes on families and businesses during times of high unemployment delays economic recovery and any outlays that occur as a result of the provisions in this legislation should not be offset though tax increases.

STAFF CONTACT

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